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SIPDIS

STATE FOR IO/SHA, DRL/MLA

E.O. 12958: N/A

TAGS: PHUM PREF UNHRC

SUBJECT: LETTER FROM SRS ON FREEDOM OF OPINION AND ESA  
EXECUTIONS REGARDING WALEED KHALED

1. Mission received the following communication from Ambeyi Ligabo, Special Rapporteur on the Promotion and Protection of Freedom of Opinion and Expression, and Philip Alston, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, regarding the fatal shooting of Mr. Waleed Khaled in Iraq. This communication has been forwarded to IO/SHA via e-mail and is number 32 on the Geneva 2005 Communications Log.

2. Begin text of letter:

REFERENCE: AL G/SO 214 (67-13)  
USA 11/2005

16 September 2005

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Commission on Human Rights resolutions 2002/48 and 2004/37 respectively.

In this connection, we should like to bring to your Government's attention - as well as to the attention of the Government of Iraq, which we are addressing in this matter as well - information we have received concerning the fatal shooting of Waleed Khaled, a 24-year old TV soundman working for Reuters, based in Samawa.

According to information received, on 28 August 2005 a Reuters TV crew consisting of Waleed Khaled and the cameraman Haider Khadem went to the site of a terrorist attack that had resulted in the death of two Iraqi policemen in the Hay-al-Adil district of West Baghdad. Upon arrival at the scene, a United States military sniper standing on the roof of a shopping centre opened fire on him, hitting him fatally once in the head and four times in the chest. Mr. Khadem was slightly wounded and immediately arrested by U.S. forces. A U.S. military statement said that "U.S. Task Force Baghdad units responded to a terrorist attack on an Iraqi Police convoy. (...) One civilian was killed and another was wounded by small-arms fire during the attack."

Without in any way implying any determination on the facts and circumstances of this case, we would like to refer Your Excellency's Government to the fundamental principles applicable to such an incident under international law. Article 6 of the International Covenant on Civil and Political Rights provides that no one shall be arbitrarily deprived of his or her life. As the Human Rights Committee has clarified, "arbitrarily" means in a manner "disproportionate to the requirements of law enforcement in the circumstances of the case" (Views of the Committee in the case Suarez de Guerrero v. Colombia, Communication no. 45/1979, 13.3). In order to assess whether the use of lethal force was proportionate to the requirements of law enforcement, there must be a "thorough, prompt and impartial investigation" (Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). This principle was recently reiterated by the 61st Commission on Human Rights in Resolution 2005/34 on "Extrajudicial, summary or arbitrary executions" (OP 4), stating that all States have "the obligation ... to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions".

In Resolution 2005/38 the Commission on Human Rights restated this principle with specific regard to acts of violence against journalists, calling on States to investigate such acts and to bring those responsible to justice, and adding explicitly that the principle applied also in situations of armed conflict. Respect of the outlined norms of international law is crucial not only in order to protect the right to life of journalists, but also to ensure respect for the right to freedom of opinion and expression, as set forth in article 19 of the Universal Declaration of Human Rights and reiterated in article 19 of the International Covenant on Civil and Political Rights.

It is our responsibility under the mandates provided to us by the Commission on Human Rights and reinforced by the appropriate resolutions of the General Assembly, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Commission, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?

2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries that may have been carried out in relation to the shooting of Waleed Khaled. Have penal, disciplinary or administrative sanctions been imposed in connection with this incident? If no inquiries have taken place or if they have been inconclusive, please explain why.

3. Please explain what rules of engagement or policies are in place to protect the right to life and physical integrity, as well as the right to freedom of expression and information, of journalists covering terrorist attacks in Iraq, in order to prevent incidents such as the one resulting in the death of Waleed Khaled.

4. Please indicate whether compensation has been provided to the victim or the family of the victim.

We would appreciate a response within sixty days. We undertake to ensure that your Government's response to each of these questions is accurately reflected in the reports we will submit to the Commission on Human Rights for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Ambeyi Ligabo  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Philip Alston  
Special Rapporteur on extrajudicial, summary or arbitrary executions

End text of letter.

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